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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Glenn P. Rickards
DOWREY RICKARDS PLLC
Suite 106
19119 Northcreek Parkway
Bothell, WA 98011

EXAMINER

FOX, CHARLES A

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,922

Applicant(s)

COBLENTZ, W. SAM

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Alfonte.

Regarding claims 1 and 5 Alfonte US 2,388,458 discloses a load push mechanism for a lift truck comprising:

a lift truck;

at least two forks (18) for lifting;

a lift mechanism mounted on said truck;

a push mechanism (21) raisable and lowerable via a lift mechanism (23);

a push plate (20) for engaging cargo carried by the lift truck blades;

the push plate being movable from a retracted position to an extended position;

the push plate having sufficient clearance over a standard pallet during movement of the push plate such that cargo carried on said pallet may be removed from the pallet by extension of the plate.

Regarding claims 2 and 6 Alfonte also discloses that the distance from the bottom of the push plate and the top of the pallet is sufficiently small to allow the push plate to engage cargo resting on the pallet.

Regarding claims 3 and 7 Alfonte further discloses that the distance between the lower edge of the push plate and the top edge of the forks (18) such that the device can change between a first configuration where the plate and the forks are close together or further apart and that there is sufficient clearance in at least one configuration to allow the plate to extend over the top of a pallet held by said forks.

Regarding claims 9 and 10 Alfonte further discloses frames (19) which act as pallet stops to secure a pallet to the forks, wherein at least one frame is located on each fork at a position forward of the push plate when said plate is retracted.

Regarding claims 11 and 12 Alfonte also discloses that frames (19) are raisable and lowerable via said forks and are small enough to fit in the grooves of a conventional pallet.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alfonte as applied to claims 3 and 7 above, and further in view of Hosotani et al . Alfonte teaches the limitations of claims 3 and 7 as above he does not teach the lower portion of the plate as being movable relative the rest of the plate. Hosotani et al. US 5,009,562 teaches a push plate for a forklift, said plate having a gate (32), wherein said gate can pass over a pallet when in a raised position. It would have been obvious to

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one of ordinary skill in the art, at the time of invention to provide the device taught by Alfonte with a lower gate as taught by Hosotani et al. in order to allow the device to compensate for variations in the height of pallets it may have to handle.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alfonte as applied to claim 5 above, and further in view of Thomas. Alfonte teaches the limitations of claim 5 as above he does not teach a pallet restraint that is mounted beside the forks. Thomas US 2,639,051 teaches a pallet gripper (83) that mounts between the forks of a forklift, with an actuator (103) for causing said grippers to grasp a pallet. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Alfonte with a gripper as taught by Thomas in order to grip a pallet that may have a solid top, thereby allowing the device to work with a wider range of pallets.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alfonte as applied to claim 5 above, and further in view of Olsen. Alfonte teaches the limitations of claim 5 as above he does not teach a side shift for the forks. Olsen US 4,861,223 teaches a forklift with a push plate (54) further comprising a side shift device for moving a pair of forks sideways relative to a lift mechanism. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Alfonte with the side shift device taught by Olsen in order to allow the device to align with a off centered pallet without having to move the entire forklift, thereby saving time in the pickup of pallets that may not be lined up with the center line of the fork truck.

Response to Amendment

Amendments to the claims filed on December 30, 2005 have been entered into the record.

Response to Arguments

Applicant's arguments filed December 30, 2005 have been fully considered but they are not persuasive. Regarding the Alfonte reference not being compatible with a standard 4-way pallet, this is incorrect. Alfonte teaches his device as being used with pallets of conventional types, as such it is inherent in the design of the Alfonte reference that the device work with conventionally made pallets. As the applicant claims standard pallets in the instant invention it is clear that they would be considered as being a conventional type of pallet and therefore Alfonte meets this limitation in the claims. Further the direction of pushing relative to the pallet is not claimed by the applicant and is not a proper argument. Alfonte need only disclose placing the forks in a pallet, securing the pallet, and pushing the cargo off of said pallet. Alfonte discloses the limitations of the instant invention as claimed, therefore the claims rejected over Alfonte are hereby made final.

Regarding claims 4 and 8 the applicant is arguing that the Hosotani reference does not teach gripping the pallet and the examiner agrees. However this is not a limitation of either claim 4 or 8 and the argument is not proper. The Hosotani reference is used as a teaching of a forklift push plate with a lower portion that is extendable and retractable in a vertical direction. As for clearance over the pallet and the width of the blades it is noted that the Alfonte reference teaches these limitations. The Hosotani

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reference is used only a teaching if the vertically moving portion of the push plate. Hosotani further teaches their system as an improvement on existing push plate type forklifts, as such this is motivation to combine the references.

Regarding the rejection of claim 13, applicant argues that Alfonte teaches away from a device with a pallet gripper. This is not what Alfonte teaches away from, he teaches away from a system where special pallets are needed. The system taught by Thomas would not need specially constructed pallets as is pointed out by the applicant. As such a gripper as taught by Thomas is compatible with the system taught by Alfonte in order to allow the device to still operate when using a non standard or flat topped pallet which are not uncommon in the art. As such the combination is proper and the claims herein made final.

Regarding the rejection of claim 14 by Alfonte in view of Olsen the applicant does not present any arguments other than Alfonte does not meet the limitations of claim 5. This has been addressed above and the claim is finally rejected.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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3-30-06